

Applicant: Vapor Inc.

Agent: R2 Consulting Services

Location: 427 Canoncito School Rd. NW
T9 , R2W, Section 6

Property Size: 5 acres (approximately)

Existing Zone: A-1/Special Use Permit for a store, laundry, general mercantile, post office and restaurant

Proposed Zoning/SUP Special Use Permit for a Store (general mercantile including service station), post office, fuel tanks, and watchman caretakers mobile home

Recommendation: Deferral



Summary: This request is for an amendment to an existing Special Use Permit that has allowed a store, laundry, general mercantile, post office, and restaurant (CZ-83-55). The amendment will allow the expansion of the Special Use Permit--from approximately one acre to five acres. It will also remove the uses from the site plan that are no longer found on the site (laundry, restaurant), and will allow above-ground fuel tanks and a mobile home for a watchman-caretaker to remain on the site. The property is located on private land in the northwest portion of Bernalillo County to the west of the Rio Puerco in Section 6, Township 9, Range 2W about 5 miles north of I-40 nearby To'Hajiilee and Laguna Tribal Lands.

Staff Planner: Catherine VerEecke, Program Planner

Attachments:

1. Application
2. Area and Land Use Maps
3. Existing Special Use Permit, Notices of Decision
4. Notice of Violation
5. Petition of support
6. Site Plan (Commissioners only)

Bernalillo County Departments and other agencies reviewed this application from 7/27/10 to 8/9/10. Their comments were used in preparation of this report, and begin on Page 9.

AGENDA ITEM NO.: 13
County Planning Commission
September 1, 2010

CSU-20100023 R2 Consulting Services, agent for Vapor Inc., requests approval to amend the Special Use Permit to allow a mobile home for watchman/caretaker and two above ground gas tanks on the S ½ of the NW ¼ of the NW ¼, Section 6, T9N R2W, located at 427 Canoncito School Road NW, west on I-40, north at the Tohajilee exit, approximately 5 miles, on the east side of Canoncito School Road, zoned A-1 with a Special Use Permit for a Store (including service station), Laundry, General Mercantile, Post Office & Restaurant, and containing approximately 5 acres. (N-12W)

AREA CHARACTERISTICS AND ZONING HISTORY
Surrounding Zoning & Land Uses

Site	Zoning	Land use
	A-1	Vacant
North	A-1	Vacant
South	A-1	Vacant
East	A-1	Vacant
West	----	Tribal land (To'hajiilee)

BACKGROUND:

The Request

The applicant is requesting an amendment to an existing Special Use Permit for Specific Use that will allow the operation of a business (trading post) that currently includes a general mercantile store, post office, service station, watchman caretaker's quarters, and above-ground fuel tanks. The property has an underlying zoning of A-1. The property is located on a five acre tract of private land in the northwest portion of Bernalillo County to the west of the Rio Puerco in Section 5, Township 9, Range 2W about 5 miles north of I-40 nearby To'Hajiilee and Laguna Tribal Lands. It is bounded on the west by To'Hajiilee land and on the south, east, and north by vacant private land. The applicant owns the property to the immediate west of the site. The access for the property is Canoncito School Rd., about 5 miles north of I-40.

In 1983, a previous property owner requested C-1 zoning with the intent to develop the trading post. On November 15, 1983, the Board of County Commissioners approved a Special Use Permit for a Specific Use for a store, laundry, general mercantile, post office and restaurant with the conditions recommended by the County Planning Commission. The conditions required approval of a site development plan by staff and also prohibited the sale of alcoholic beverages on the site (Attachment 2). The site plan approved on November 22, 1983 included a building with a general store, laundry and café, other structures with jewelry manufacturing and a post office. It also included a mobile home and gas pumps. In 1984, the site plan was amended to add a barn and a canopy for the mobile home.

In May 2010, County staff notified the current property owner that the property is not in compliance with the approved site plan (Attachment 4). Based on the changes that have taken place on the site over the years and the expansion of the area being used for the business, the property owner elected to apply for a new Special Use Permit.

Under the current request, the development on the site will be allowed to remain. The site plan shows the existing retail structure, gas pumps, fuel tanks, and mobile home. The site plan also shows existing landscaping (native grass) and proposes to add additional trees along the west and south property lines that abut the road/easement.

Request justification. In the response to Resolution 116-86, the applicant states that the subject property has been developed with similar uses for over 27 years and has provided services for the To'hajiilee Reservation. The agent states that the uses are consistent with the Rural Area designation in the Comprehensive Plan in that it is small-scale and locally-owned. The request is not harmful as the use is no residential development in the immediate area. The request proposes to waive the requirements for 6 foot landscape buffers and solid walls/fences until adjacent properties are developed with residential uses. The request includes evidence of a certified mailing that was sent to adjacent property owners.

Surrounding Land Uses and Zoning

The subject property is located in an open, small undeveloped area in the northwestern portion of Bernalillo County nearby Cibola County. The area consists of several quarter sections of private land with A-1 zoning, which is surrounded by tribal land. Within this area there have

been a few subdivisions and development of one property with a single family dwelling on it. Several nearby tracts of land are owned by the Bureau of Land Management or the State of New Mexico. The closest other development to the south is nearby and north of the I-40 Rio Puerco Exit, about 10 miles away. The property is accessed from the Canoncito School Rd. which serves the To'hajiilee community to the north.

In January 2005, the Board of County Commissioners approved Special Use Permits for Drilling and Production of Hydrocarbons were approved on three tracts of land nearby the Rio Puerco (CSU-40032, CSU-40033, CSU-40044). In 2005, a Special Use Permit was granted for and Amusement Enterprise and Mobile Home for a Watchman Caretaker (CSU-50010), although it is no longer in use. To the west of the Rio Puerco, a Special Use Permit was granted for a Planned Development Area (New Mexico Speedway and residential development) (CSU-97-2), which has not been developed. No other Special Use Permits have been granted in this area nearby and west of the Rio Puerco.

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

Section 3 (Land Use) Rural Area The Goal of the Rural Area is, "to maintain the separate identity of Rural Areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns." The following are applicable policies:

Policy 3.a for the Rural Area states that "Rural Areas shall generally retain their rural character with development consisting primarily of ranches, farms, and single-family homes on large lots; higher density development may occur at appropriate locations within rural villages or planned communities."

Policy 3.b states that, "Development in Rural Areas shall be compatible with natural resource capacities, including water availability and capacity, community and regional goals and shall include trail corridors where appropriate."

Policy 3.e for this area states that new rural development shall be sensitive to existing historic, cultural and economic patterns.

Policy 3.g (Rural Area) states "The following policies shall guide industrial and commercial development in rural areas:

- Small-scale, local industries which employ few people and may sell products on the same premises are the most desirable industrial use.
- Neighborhood and/or community-scale rather than regional scale commercial centers are appropriate for rural areas. Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections and within designated mountain and valley villages."

Bernalillo County Zoning Ordinance

Resolution 116-86 lists policies for evaluating a Zone Map changes and Special Use Permit applications.

- A. A proposed land use change must be found to be consistent with the health, safety, and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans which have been adopted by the County.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
 - 1. There was an error in the original zone map.
 - 2. Changed neighborhood or community conditions justify a change in land use or
 - 3. A different use category is more advantageous to the community as articulated in the Comprehensive Plan or other County Master Plan, even though (1) and (2) above do not apply.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. A proposed land use change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the County may be:
 - 1. denied due to lack of capital funds; or
 - 2. granted with the implicit understanding that the County is not bound to provide the capital improvements on any special schedule.
- H. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- I. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
 - 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted land use plan; or
 - 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is

not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.

- J. A zone change request which would give a zone different from the surrounding zoning to a strip of land along a street is generally called a “strip zoning.” Such a change of zone may be approved only when:
1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone due to traffic or special adverse uses nearby.

ANALYSIS:

Surrounding Land Use and Zoning

The applicant has requested a Special Use Permit for Specific Use for a general mercantile store, post office, service station, watchman caretaker's quarters, and above-ground fuel tanks on approximately 5 acres in the western portion of Bernalillo County to the west of the Rio Puerco. The request will account for changes on the site that have taken place since the 1980s. A new commercial use on this particular tract of land would be distinct from the prospective uses of adjacent zones with A-1 zoning. However, given the remoteness of the development, the impacts have been minimal, and the business has provided services to residents of the tribal lands nearby the site.

Plans

The Comprehensive Plan designates the vicinity of the site as ‘rural’ and calls for commercial development to occur at designated locations. However, given that the use is existing and has been small-scale and of low impact, a new Special use Permit appears to be appropriate. Also, as a ‘trading post,’ the proposed use actually appears to be consistent with the rural qualities of the site's vicinity.

Zoning Ordinance

It appears that the proposed use is not in conflict with Resolution 116-86 as most of the area is undeveloped and the use is established and evidently has been beneficial to the residents of the area of the site. The use would not be in significant conflict with the Comprehensive Plan area designation for the area (Rural) that calls for rural-scale commercial uses.

However, the application does not fully address the requirements of Section 18.b.32 which requires evidence of substantial neighborhood support from neighborhood residents or property owners within 200 feet of the property and evidence of unique conditions. Although the applicant has contacted adjacent property owners via certified mail, none have submitted any form of support for the use. A petition from customers of the trading post has been submitted (Attachment 5), but the agent should explain how this meets the requirements for

substantial neighborhood support.

The agent states that the unique conditions exist for the property in that the property currently has a Special Use Permit for similar uses. The agent should provide additional information on the unique conditions of the property, beyond that stated in the application.

Agency Comments

County staff and representatives from other agencies have provided comments on this case. Most have no adverse comments for the proposed development. Public Works (Development Review) comments state that the access shown on the site plan is acceptable based on using an existing Bureau of Indian Affairs road. Public Works (Drainage) staff has stated that a conceptual grading and drainage plan is needed prior to approval of the Special Use Permit. County Environmental Health staff is also requesting well and septic permits for the site prior to approval. Based on these requirements, staff is recommending deferral of the request.

The request proposes to waive the requirements for 6 foot landscape buffers and solid walls/fences until adjacent properties are developed with residential uses.

Analysis Summary

Zoning	
Resolution 116-86	Use would not be harmful as the area is undeveloped. Use provides a service for residents of nearby tribal land.
Requirements	Provide evidence of substantial neighborhood support (customer petition provided). Clarify statement of unique conditions. Address issue of landscape buffer where property abuts residential properties.
Plans	
Comprehensive Plan	Use appears to be consistent with Rural Area designation in that it provides a small-scale commercial use that provides services for nearby lands.
Area Plan	N/A
Other Requirements	
Environmental Health	Comply with relevant departmental and State requirements (well, septic, fuel tanks).
Public Works	Approval of conceptual grading and drainage plan.

Conclusion

In conclusion, it appears that a new Special Use Permit for Specific Use for general mercantile store, post office, service station, watchman caretaker's quarters, and above-ground fuel tanks could be appropriate in this instance. The use would have limited impact on the area and would be relatively consistent with the Rural Area designation. The applicant still must address the outstanding comments of staff and provide evidence of substantial neighborhood support and unique conditions for this request to be approved.

RECOMMENDATION:

DEFERRAL of CSU-20100023.

Catherine VerEecke
Program Planner

BERNALILLO COUNTY DEPARTMENT COMMENTS

Building Department:

No comments received.

Environmental Health:

BCEH does not have a record of an approved water supply or wastewater disposal method. Applicant shall acquire necessary permits and approvals prior to approval of special use. All NMED requirements in regards to the storage of petroleum products shall be strictly adhered to.

Zoning Administrator:

No comments received.

Zoning Enforcement:

No comments received.

Fire:

No comment received

Public Works:

DRAN:

This property is subject to Chapter 38 of the Bernalillo County Code for Flood Damage Prevention and Storm Drainage. A conceptual grading and drainage plan prepared by a New Mexico registered engineer must be provided with this special use application. A formal grading and drainage plan will be required within 60 days of approval of this special use request and prior to any development or additional development of this property.

DRE:

Road is Maintained by Bureau of Indian Affairs, therefore no Traffic Scoping Report is required & No Adverse Comments.

Parks & Recreation:

No comments received.

Sheriff's:

No comment received

COMMENTS FROM OTHER AGENCIES

MRCOG:

No comments received.

AMAFCA:

No comment .

City Planning Department:
No comments received.

City Public Works:
Transportation Planning: No comments.

Transportation Development: No adverse comments

Water Utility Authority
No comments.

City Transit:
No comments.

City Open Space:
Open Space has no adverse comments

New Mexico Gas
No Adverse Comment

New Mexico Gas
W 5FT of S of NM SEC 6 T9N R2W, the property is located at 427 Canoncito Rd NW.
The owner of the above property requests a special use permit for a general mercantile store, post office, service station, and watchmen/caretakers quarters. This will have no adverse impacts to the APS district.

PNM
No comments received.

NEIGHBORHOOD ASSOCIATIONS: